

ARTICLE 30
AMENDMENTS, REZONINGS, PUBLIC HEARINGS,
AND PUBLIC NOTICE REQUIREMENTS

30-1 Authority for Change. Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Council may, by ordinance, amend, supplement, or change the regulations, district boundaries, or classifications of property. Any such amendment may be initiated by resolution of the Town Council, or by motion of the Planning Commission, or by petition of any property owner, addressed to the Town Council.

30-2 Application for Amendment. Every application for amendment of the Zoning Ordinance shall contain the following as applicable:

- The applicant's name and address and his representative and the interest of every person represented in the application.
- A Plan showing the extent of the area to be rezoned, streets bounding and intersecting the area, the land use and zone classification of abutting districts, and photographs of the area to be rezoned and abutting areas.
- A statement of the circumstances in the proposed district and the abutting districts and any other factors on which the applicant relied as reasons for supporting the proposed rezoning.
- The approximate time schedule for the beginning and completion of development in the area.
- A plan to scale, indicating the locations of structures, uses, and areas for off-street parking and loading.
- Information about the market area to be served by the proposed development if a commercial use, including population, effective demand for proposed business facilities, and any other information describing the relationship of the proposed development to the needs of the market area as the Planning Commission shall prescribe.
- The degree of compliance of the proposed rezoning request and subsequent development plans with the provisions of the Comprehensive Plan.

30-3 Referral to Planning Commission. The zoning ordinance shall not be amended unless the Town Council has referred the proposed amendment or reenactment to the Planning Commission for its recommendations. The Commission shall hold a public hearing on the amendment, after notice as required by Section 15.1-431 of the Code of Virginia, as amended, and may make appropriate changes in the proposed ordinance or amendment as a result of such hearing. Failure of the Planning Commission to report in sixty (60) days to the Town Council shall be deemed a recommendation for approval.

30-4 Town Council Amendment Procedure. Before approving and adopting any zoning ordinance or amendment thereof, the Town Council shall hold at least one (1) public hearing thereon, pursuant to public notice as required by Section 15.1-431 of the Code of Virginia, as amended, after which the Town Council may make appropriate changes or corrections in the Ordinance or proposed amendment, provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public hearing.

30-5 Criteria for Consideration. In considering requests for rezonings, the Planning Commission and Town Council shall consider the following factors:

- whether the rezoning request, if granted, would further the public interest, and the goals, objectives, and policies of the Comprehensive Plan;
- whether the rezoning is consistent with the town's Future Land Use Plan, as identified in the Comprehensive Plan, and established land use patterns;
- whether the rezoning is justified by changed or changing conditions;
- whether the rezoning, if granted, would create an isolated district unrelated to adjacent districts;
- whether the Town has the capability to provide public utilities, roads, and services if the rezoning were approved;
- whether the rezoning will be compatible with neighboring uses and not have an adverse impact on the value of these properties; and
- whether there are adequate sites available elsewhere in the Town for the proposed use, or uses, in districts where such uses are already allowed.

30-6 Joint Public Hearing. The Town Council and the Planning Commission may hold a joint public hearing pursuant to public notice as required by Section 15.1-431 of the Code of Virginia, as amended.

30-7 Majority Requirement for Change in Ordinance. An affirmative vote of at least a majority of the members of the Town Council shall be required to adopt, amend, or reenact a zoning ordinance.

30-8 Timing of Application Consideration and Reconsideration. Proposed amendments shall be considered as soon as feasible, based on the regular schedule of Planning Commission and Town Council meetings and the schedule of newspaper publication relative to public notice. A petition for rezoning which has been denied by the Town Council will not be reconsidered for a period of one (1) year from the date of denial.

30-9 Conditional Zoning

- Purpose. Where competing and incompatible uses conflict, traditional zoning methods and procedures are sometimes inadequate. In such cases, more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of this section to provide a zoning method as authorized under Sec. 15.1-491(a), Code of Virginia 1950, as amended, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community even though said conditions may not be generally applicable to land similarly zoned. While the conditions may vary from property to property by reason of the nature of the use and different circumstances at a particular location, it is not the intention of this section to authorize conditions limited to a particular individual or group, owner, or operator, and the provisions of this section shall not be used for the purpose of discrimination in housing.
- Proffer in Writing. As a part of a petition for rezoning or amendment of the zoning district map the owner or owners of the property involved may, prior to a public hearing before the Town Council, voluntarily proffer in writing such reasonable conditions, in addition to the regulations provided for the zoning district or districts as herein set forth, as he deems appropriate for the particular case, as provided for in Section 15.1-491.2:(1), Code of Virginia, as amended, which section is incorporated as part of this Ordinance as if set out fully herein.

For the purpose of this Ordinance, proffered conditions shall be interpreted to include written statements, development plans, profiles, elevations, and/or other demonstrative materials. Materials of whatever nature and intended as conditions shall be annotated with the following statement signed by the owner or owners of the subject property: "I (we) hereby proffer that the development of the subject property of this application shall be in strict accordance with the conditions set forth in this submission unless an amendment thereto is mutually agreed upon by the Town Council, and the undersigned."

- Review and Revision of Proffered Conditions. Additional conditions may be proffered by the applicant during or subsequent to the public hearing before the Planning Commission, provided however that after proffered conditions are signed and made available for public review and the public hearing before the Town Council has been advertised (whether or not jointly held with the Planning Commission) no change or modification to any condition shall be approved without a second advertised public hearing thereon.
- Modifications to Proffers. After the Town Council public hearing has been advertised or commenced, should additional or modified conditions be proffered by the applicant, which conditions were discussed at the public hearing before the Planning Commission, then a second public hearing need be held only before the Town Council before the application and the modified conditions can be approved.

Should additional conditions be proffered by the applicant at the time of the public hearing before the Town Council, which conditions were not addressed at the public hearing before the Planning Commission, or if the proffered conditions are modified beyond the scope of any conditions considered at the public hearing before the Planning Commission, the application shall be the subject of a second public hearing before both the Planning Commission and the Town Council which hearing may be either separately or jointly held.

- Annotation of Zoning District Map. The zoning district map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Zoning Administrator shall keep in his office and make available for public inspection a Conditional Zoning Index. The Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district. Such conditions shall become a part of the zoning regulations applicable to the property in question, regardless of changes in ownership

or operation, unless subsequently changed by an amendment to the zoning district map, and such conditions shall be in addition to the specific regulations set forth in this Ordinance for the zoning district in question.

- Enforcement of Conditions. The Zoning Administrator shall be vested with all necessary authority on behalf of the Town Council to administer and enforce conditions attached to such rezoning or amendment to the zoning district map, including: (a) the ordering in writing of the remedy of any noncompliance with such conditions; (b) the bringing of legal action to insure compliance with such conditions, including injunction, abatement, or other appropriate action or proceeding; and (c) requiring a guarantee, satisfactory to the Town Council, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the Town Council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any of the required use, occupancy, or building permits, as may be appropriate.
- Conformity of Site Development Plans. Upon approval, any site plan, subdivision plat or development plan thereafter submitted for the development of the property in question shall be in substantial conformity with all proffered statements, plans, profiles, elevations, or other demonstrative materials, and no development shall be approved by any Town official in the absence of said substantial conformity. For the purpose of this Section, substantial conformity shall mean that conformity which leaves a reasonable margin for adjustment to final engineering data but conforms with the general nature of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant.
- Change of Approved Conditions. Once conditions have been approved, and there is cause for an amendment which would not be in substantial conformity with the proffered conditions, then an application shall be filed for an amendment. If the amendment concerns an approved site development plan, such application shall include the submission requirements for a site plan set forth in Article 27, except that the Planning Director may waive any submission requirement if such requirement is not necessary for an adequate review of the site plan amendment application. Such amendment shall be the subject of public hearing in accordance with the requirements for a new application.

- Review of the Zoning Administrator's Decision. Any zoning applicant who is aggrieved by the decision of the Zoning Administrator, pursuant to the provisions of this Section may petition the Town Council for the review of the decision of the Zoning Administrator.